

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

WP(C).No. 34564 of 2005(M)

OS.525/1999 of I ADDL.SUB COURT,ERNAKULAM
.....

PETITIONER:

ABDUL RUSSAK
THEMPADATH HOUSE,
BEENA ANCHUMANA ROAD,
EDAPPALLY, KOCHI - 24

BY ADV. SRI.ASP.KURUP
SRI.SADCHITH.P.KURUP

RESPONDENTS:

GOPALAKRISHNAN NAIR,
HARITHA KYTHOTH ROAD,
PALARIVATTOM, KOCHI - 25

BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WPC NO. 34564/2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF PLAINT IN O.S. NO.525/1999 FILED BY RESPONDENT.

EXT.P2: COPY OF I.A. NO.5834/2005 DATED 23.11.2005 FILED BY RESPONDENT.

EXT.P3: COPY OF OBJECTION DATED 24.11.2005 FILED BY PETITIONER.

EXT.P4: COPY OF I.A. NO.3092/2001 DATED 30.6.2001 FILED BY RESPONDENT.

EXT.P5: COPY OF OBJECTION DATED 6.7.2001 FILED BY PETITIONER.

EXT.P6: COPY OF ORDER DATED 26.11.2005 PASSE DBY SUB COURT IN I.A.
NO.3092/2001 IN O.S. N525/1999

/TRUE COPY/

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 34564 of 2005

Dated this the 21st day of June 2007

JUDGMENT

Heard Sri. Sadchith P.Kurup, the learned counsel for the petitioner and Sri.P.Suresh, the learned counsel for the respondent.

2. The order of the learned Subordinate Judge passed in I.A. 3092/2001 permitting the recording of the depositions of the DW1 on Tape recorder is under challenge. I do not find any reason for setting aside Ext.P6. It was not due to the fault of the respondent plaintiff that the tape recorder did not function when the voice of the defendant was recorded pursuant to the order of the court in I.A. No.3092/2001. The learned Subordinate judge has found that a proper recording of the voice of the defendant is necessary for resolving the issue in the suit. I do not think that this court will be justified having regard to the settled parameters for exercise of power under Article 227, in setting aside Ext.P6.

Challenge against Ext.P6 fails. The writ petition will stand dismissed.

PIUS C. KURIAKOSE,
JUDGE.

dpk